19 38

Department of Revenue

OFFICE Board of Revenue.

STATION Madras.

Mis. No. 3124

Dated 5 · 11 · 38

DISPATCHED

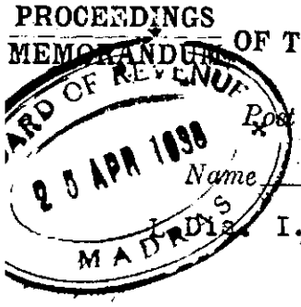
file

(SUBJECT)

Assignment - Land - South Kana
Mangalore [illegible] Kuppanamogar village - Si
Levy of [illegible] rate - Appeal petition - Ri

C.F. 33.

PROCEEDINGS
MEMORANDUM OF THE Board of Revenue, Land Revenue and Sett., Madras.



*Post Box No.*_____ *Telegraphic Address*_____

Name C.A.Henderson Esq., C.S.I., V.D., I.C.S., Commr.of Land Revenue and Sett.

Dis. I. *No.* 1475/38, *dated* 31st March 193 8.

Short title Assignment- Land (South Kanara)- Mangalore taluk- Jeppinamogar village- S.No.92/1 A- Levy of wet rate- Petition.

READ the following:-

--

Read: petition from M.R.Ry. P. Narayan Vaijappa Bhandary dated 18th March 1938.

The petition should bear court fee stamps of the value of one rupee eight annas and as it does not bear them it can receive no consideration.

(Sd.) L. Lakkaraju,
Asst. Secretary.

To

M.R.Ry. P. Narayan Vaijappa Bhandary, Land lord and merchant, Mangalore with the petition and enclosure returned.

--

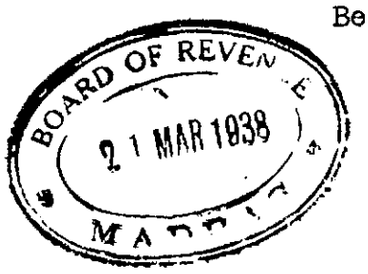
Forwarded.

(By order)

4/4/38
Superintendent.

J.E.G./4.4.
HSR/AK
4/4

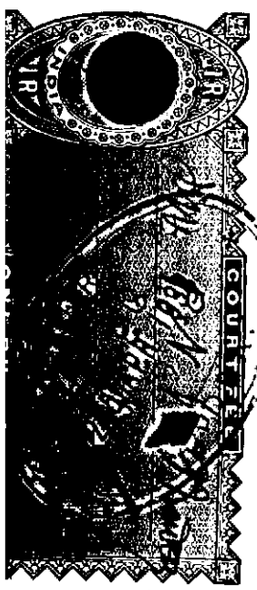
Resubmitted after affixing court fee stamps of the value of One rupee eight annas.



Before the Honourable Board of Revenue,

MADRAS.

P.Narayan Vaijappa Bhandary,
Land-Lord & Merchant,
Mangalore.) Appellant.



Being highly aggrieved by the order of the District Collector of South Kanara in D.Dis. 514/38 dated 2-3-38 rejecting the application to charge dry rate of assessment on S.N.92/1 A of Jeppinamogaru village, the appellant above named begs to prefer this appeal on the following grounds.

2. The order of the Lower Court is contrary to the rules now in force and opposed to the facts of the case.

3. 'The Lower Court has misunderstood the term 'river accretion' & presumed, without any basis, that the land is fit for cultivation. The river accretion in this case comprises of the deposit of silt and mud by the flow of water in the river and needs further reclamation at considerable expense before cultivation of any kind can be raised. The petitioner is, in fact, spending a large sum of money for bunding the plot to prevent saline water from getting into it.

4. The Lower Court has erred in supposing that the appellant is not cultivating the plot although it is fit for cultivation. No one will keep uncultivated a river accretion fit for cultivation and pay assessment on it. That a major portion of the plot is submerged under water during high tide is a fact which can be verified on local inspection.

5. It is an undisputed fact that the land did not contain any cultivation when it was sold in auction in 1937

(in 1937)

and purchased by the appellant. The levy of wet rate of Rs.7-14-0 per acre on an uncultivable extent of nearly three acres is highly improper and unjust. It is understood that the wet rate is chargeable only in the 5th year of cultivation. The lower Court has entirely ignored this rule. In any case, the levy of wet rate until a wet crop is actually raised on the plot is contrary to the common principles of fixing the rate of assessment.

6. The appellant therefore prays that the Honourable Board of Revenue may be pleased to direct a local inspection of the plot either by the Collector or the Deputy Collector and to cancel the order levying the prohibitive wet rate of Rs.7-14-0 and to levy the highest dry rate in accordance with the present policy of the Government.

7. A copy of the Collector's order appealed against is enclosed.

Mangalore.)
18-3-'38-)

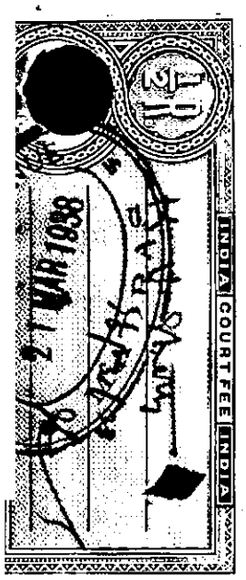
Appellant.

D.Dis.514/38.

Proceedings of the Collector of South Kanara dated the 2nd March 1938.

M.R.Ry. Rao Bahadur M.V.Venkoba, M.A., B.A.

Assignment - Land - Mangalore Taluk - Jeppinamogar village S.No.92/1A - Levy of wet rate of assessment - Reclassification as dry - Petition - Rejected.



Petition dated 15.1.38 of P. Narayana Vaijappa Bhandary of Mangalore.

Mangalore Tahsildar's M.Dis.966/38-B1. dated 5.2.38 received with Revenue Divisional Officer's M.Dis.771/38 dated 9.2.38 and the connected records.

River accretions and bettu lands stand on different categories altogether. If the petitioner does not cultivate the land it is his own fault. The land has been found fit for wet cultivation and the levy of wet assessment is quite proper. The Collector is therefore unable to comply with the petitioner's request. The petition is rejected.

(By Order)

Huzur Sheristedar.

To

The petitioner.

Copy to Tahsildar, Mangalore through Revenue Divisional Officer with D.R.502/46.

Assignment of Land -
(S. Kanara) - Mangalore Taluk -
Jappinamogar Village - S. No.
3-1 A - Levy of Wet assessment

Read :-

Petition from M. C. Ag. P. Narayan
Kaiyappa Bhandary dt 18.3.38.

Ref. D. No. 1962/36-1 dt 14-5-38
Forwarded to the
Collr of South Kanara for
submission of the Connected
records with a clear report.
- Col
38 12/5/38. Asst
14/5

To the Collr. of S. Kanara with a
petition and enclosures (Pp 1-5)
original to be returned
when reply.

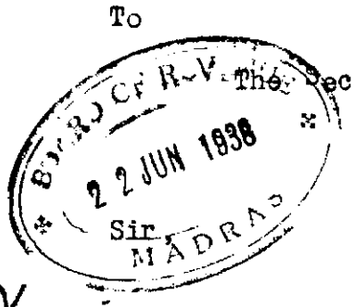
Pp 1-8 Cf.

D.Dis.3197-38. South Kanara Collector's Office,
Mangalore, dated 19th June 1938.

From

Sri Rao Bahadur M.V.Vellodi, B.A.,
Collector of South Kanara.

To



The Secretary to the Board of Revenue,
Land Revenue and Settlement, Madras.

Sir

ASSIGNMENT - Land - (South Kanara) - Mangalore Taluk - Jeppinamogar village - S.No.92/1A - Levy of wet assessment - Petition of P. Narayana Vaijappa Bhandary - Reported - Board's Refce.No.1967/38-1 dated 14.5.1938.

I resubmit herewith the petition of P. Narayana Vaijappa Bhandary with its enclosures received with the Board's reference quoted above and state as follows.

2. The petitioner seeks a revision of my order D.Dis. 514/38 dated 2.3.38 rejecting his petition objecting to the classification of land -S.No.92/1A measuring acres 2.96 of Jeppinamogar village as wet.

3. The plot in question originally stood registered as Poramboke land (Railway relinquished). In 1936, steps were taken to dispose of the land by sale by auction. The land being in the nature of a river accretion was found fit to be brought under wet cultivation and accordingly the Collector sanctioned its transfer to ayan at the wet rate of Rs.7-14-0 in his Proceedings D.Dis.6520/36 dated 23.12.36. The plot was then sold by public auction on 4.6.1937 after notifying the land as wet and after wide publication of the sale notice which was also served on the petitioner. The petitioner purchased the land for the highest bid of Rs.655/- and the sale was confirmed in his name by the Revenue Divisional Officer

Dis.2766/37 dated 7.8.37 and thus the necessary title deed to the petitioner in his order D.R.502/46 dated 2.11.37.

4. The petitioner approached me with a petition dated 15.1.1938 objecting to the levy of wet rate on the ground that under the recent orders of the Board of Revenue the plot was not liable to be charged at the wet rate as it was not brought under cultivation and as such lands should not be charged wet rate until five years after they are cultivated. The orders contained in G.O.No.727 Mis.,Rev., dated 3.4.1937 communicated with B.P. Mis. Confdl.No.1210 dated 15.4.37 which apparently the petitioner refers to in his present and previous petitions cannot be held applicable to the present case as the land had been transferred to wet and registered as such in the accounts prior to the issue of this G.O. Moreover, the plot being unlike other porambokes, a clear river accretion which could be easily brought under --- cultivation and already classed as wet I did not think that its reclassification as dry was called for especially as the petitioner on whom the sale notification specifying the classification of the plot as wet was personally served bid for the plot with open eyes and got the land for a proportionately low price which would have been more if the land was sold as dry. I have separately referred to the Board the question of excluding river accretions in this district from the exemption contemplated in the above G.O.

5. I enclose the connected records for reference.

(1) Huzur D.Dis.514/38 dated 2.3.38.
(2) " D.Dis.6520/36 dated 23.12.36.
(3) Mangalore Revenue Divisional Officer's D.Dis.2766/37 dated 7.8.37.
(4) Mangalore Taluk file D.R.502/46 dated 2.11.37.

For Collector.

20-6-W.

C.F.16.

DRAFT FOR APPROVAL.

2.15

	Date.	Initials.
When received for fair copying ..	5/11	
When copied ..	5/11	
When examined..	5.11.38	
When signed		
When despatched		

SUBJECT :— Assignment - Land - Cs. Kanara Mangalore Tk.. Jappinamogar Vg S..No. 92-1A - Levy of wet rate - Appeal petition - Dismissed.

READ AGAIN ——————, dated ——————19——.

" " —————— " ——————19——.

READ ALSO :— Appeal petition
7 3.6 cf No. J.1967/38 From the Sri P. Narayan Vaijappa Bhandary, Mangalore No. ——, dated ——19——.
7 11-12 cf J.2914/38 " Letter from the Collr. of South Kanara D. No. 3197-38 dt 19.6.38 " ——19——.
" —— " —— " —— " ——19——.

~~Order~~ (Ms.) / Resolution ~~Rout.~~ No. 3124, dated 5.11.1938.

The Board sees no grounds interference. The appeal is dismissed.

5/11/38 2/ The records received with the collector's letter above are returned.

5/11/38

7.12 cf

To Sri P. Narayan Vaijappa Bhandary, Lands lord & merchant, Mangalore.

(Paragraph 1 only.)

The Collector of South Kanara with records returned as per list. (by regd. book.)

2 cf

The bill may be allowed to be collected on application

Sent to desp 7.11.38

Note file

Assignment Land (S. Kanara) - Mangalore Taluk - Jappinamogar Vge - S. No. 92-1A Levy of wet rate Petition.

2-1 9. 1967/38.

AS (Self)

Please see the appeal petition at pp. 3-5 c/f against the order of the Collr. of S. Kanara at p. 7 c/f. The appeal is in time.

2. Apparently the land was registered in the accounts as wet. It is in undisputed possession of the petr. before assignment. The Collr. has given reasons & for rejecting the petitioner's request to levy dry assessment on the land. There appears to be no case for calling for the records and examining the question. For orders.

2/1/39 6D 5/1/39 From the Collr's proc: wet rate appears to have been imposed because of the land being found fit for wet cultivation and not actually cultivated with wet. Originally wet cultivation was not considered a necessary preliminary for transfer to wet in S. Kanara but all dry lands levelled and adapted for

Draft submitted.

11-5-38 / 12/5/38 / 14/5/38

ML
J.S
AS(Ball)
(WDS 14.) Thro' last sentence on 12 cf.
14/5 (Bal)

[BDS Ref: J. No. 1967/38-1.8)-14-5-38/. p 9 cf

J. 2914/38. pp 11-12 cf.

AS(Bal).

Please see the petition at pp 1-5 cf. and the Collrs report at pp 11-12 cf.

2/. Perusal of sources of narasapalli of the G.O. at p 7 cf. Opinion (P)

The Collr considers that the G.O. cannot apply to this case, as the land had been transferred to wet and registered as one

p 12 cf.

The Bd. Conveyed G.O 290 (2) 1-2-3 referred to in the para has been deleted in consultation with Section.

in the accounts prior to the issue of the G.O. for orders. ~~whether the petition at pp. 3-5 c.f. deserves consideration~~

12/7/38 Please put up the file containing instructions issued to the Rev. staff re: the procedure to be followed during currency of the Result. Specimen maybe also

15/7/38

4(Sett).

Please see the order above.

2. The memorandum of instructions issued for the guidance of the Rev. Deptt in ~~connection~~ regarding the procedure to be followed during the currency of the Result in respect of S. Kanan contained in B.P.No 47, Press, dated 4-5-37 vide paragraph 2 of the S.S.O.'s letter at pp. 13-14 c.f. of the B.P.

13/8/38 The appellant's land was transfered from Rly (relinquished land) poramboke to ayan wet on 23- that is, after during the currency of the Result. The procedure to be followed by the Rev dept during the currency of the Result is given in B.P. 47 Press dt 4-5-37

reg to the instruction given in the revised Memorandu
annexed to the B.P., wet rate shd be dispensed in the
ase of transfers from dry to wet only when the lan
begins to give a proper yield i.e. in the 5th yea
after the conversion is made. The same principle
must hold in the case of transfer of poramboke
to ayan wet. The appellant's land not having
brought under wet cultivation, he has a legiti

on pp 26-27 N.f, 29-30 N.f. and 31 N.f of the B/P. and also paragraph 8 of the G.O. at p 50 c/f of the B/P.

B. The case from Malabar was not dealt with in J section. F section will please see if it was dealt with by them and if so to put up the connected B/P.

2
4 & 5-3860
2858/38
Fleshin

B. In consultation with Mr. Adiseshaiyer, I made a careful search for the B.P. wherein any exceptional treatment was made as ordered by J.S. at p. 4 n/f No such B/P is traceable

7/9 N.

hall
7/9/38

A

J.S

in his C. raised his head (p 12 c/f) on it his paper? a certain Li S year was led to be modified in Malabar by Madras.

N.S.Q.

Being sent / return B

T.S.

AS.(Sett)

To. AS (Sett)

Ref. T.S. memo above

A The file (F 2858/38) linked here with is put up

B. As ordered by A.S. a further search was made by looking into the personal registers and taking all B/P relating to Malabar, etc.,

8/7/39.

Coorth Kawara bill no 80 of the round
referred to by J.S. & Attorney General
& if a reference to the Colls may be made
to it.

WS
27/9/28

J.S

80572
1.10.28

My dear Wood

I have an idea that about
a year ago Mackinnon proposed
an Ordinance to include Slavery,

in any laws adopted for the Protectorate
& Malabar is not liable for the
Assessment until the 5th year and then
I can't remember what exactly the
Class 3 laws is and my Office
assumes that this whole thing
is a figment of my imagination.
Anyhow the file is not forthcoming.
Will you please let us know whether
your Office can trace any such paper?

Do D?
20.10.38.

No.8610/38. Malabar Collector's Office,
Calicut, 18th Oct.1938.

My dear Muir,

Your D.O.No.572 dated 1-10-1938.

Possibly the orders to which you refer will be found in the following:-

i. B.P.Mis.788 Confdl.dated 6-3-1937.
ii. B.P.Mis.1211 Confl.dated 15-4-1937.
iii. B.P.Mis.1210 Confl.dated 15-4-1937.
iv. B.P.Press No.47 dated 4-5-1937.

Yours sincerely,

Edmund

D.I.R.Muir,Esq.,I.C.S.,
Secretary to the Board of Revenue,
Chepauk,Madras.

Let me see
here papers
& write by

Hs. (Ref.)

Please see the Do to the Collr. of Malabar at P.6 ante and the reply Do thereto above.

2/ The B.P.'s quoted in the Do. which are already put up when the office note dtd 28.9.38 was submitted are found at

The pages ①, ②, ⑦ + ⑦. The rest contain the.
MSS. exception referred to by T.S.
21-10-38 to me. MS 21/10/38

T.S.

This is the case of title transferred from foreclosure to owner under the Conveyancing & Law of Property Act 1881 and the instructions for dealing with such transfers will be found at p 13 of T read with para 2 of the C.O at p 9 of P. It however the transfer herein was made before the issue of the C.O at p 9 of P and was lodged by the Land Registry as a compulsory first registration & because of it was classified & the consequent burden of the assessment fell on the land which at the time it was classified. Mr. Owen should give a proper yield. Secondly as the petitioner has to apportion in making the conversion as the land was never accretion. I think the reasoning is sound, but the C.O. at P is cannot be given retrospective effect and that the appeal should be dismissed

Incidentally para 2 of the C.O at P [Previous notes need not be read.]

[illegible] before the C.O. at p 47 of X: presumably the [illegible]

[illegible] [illegible] [illegible] [

Mr Hathaway & Mr. Lee agreed with Mr Curtis D.N and withdrew his objection by withdrawing words & drawing a line against his points for orders.

I did not agree with his note and suggested to Mr Newton that Mr Wheeler's proposal should be supported. This was agreed to. It should I think have been clear from his contest that my words at the top of the page were against para 2 alone, though I am very sure that I didn't put this beyond doubt by drawing a line against these words. Anyhow Mr Wheeler recommended that to meet Lord Hawkesbury's objection to argue only in Mr S's case after Hawkesbury stepped into the shoes which I did not see without my knowledge and I am fairly certain without Mr Henderson's approval. The point was not raised by Mr Wheeler at all & if it was going to be raised Lord Granby should have been referred to Mr Cs of Nelson and Skinners for their remarks

Subsequently Mr Gov. accepted it without question.

The papers which led up to Mr Grant

of his concession to dry land converted to
use as in W coast, but they should
not be transferred to the revenue head since
concessions at such rates are at X.
For his G.O. see para 8 p 50 C7 of X.
The real question at issue was whether
the conversion of dry land to use as
the W. Coast do not constitute a type
improvement which should be exempt fr
increased taxation. This view was very
strongly held by the Board Col: Copel
but was repudiated by the Govt who
however conceded that in such cases
the next rate should not be impose
until the land began to give proper
It does not seem to me necessary
to follow use because some concessio
is given for the improvement of land
already in cultivation. A number can
should be allowed on land acqui
as Wasteland or otherwise for the pur
of conversion to use. For instance the
S. Konara Korale to raise the ra
of tiarapos of more accurately to the

A.S. (left) To A.C. (south.)
(Both)

Please see orders on p. 8 n/f.

2/ Draft submitted.

The other points raised in J.S.'s n/s

4.5.
3.11.38 with the exception of that this is denied

B/4/11 — 5/11/38

To Supdt

B/P. Mis 788 Confdl ~~dated~~ of 1937. which is to put up for this file has been taken by R.K. He may be requested to put up the B/P. and send back the file to I Section for submission to AS (Sett) This is being delayed for want of that B/P.

30/7/38 Cdl 30/7/38 R. K Pleader

The file is in D

Cdl
30/7

To AS(Sett).

Pl. see orders at p. 3 N.f. The B/P. has been taken in I section and put up for a file which is in circulation. It will be put up for this file as soon as it is made available.
Pl get it as quickly as possible

30.7.38. Cdl 30/7/38 Mas 1/8

To. I section

Please say whether the B/P is now available.

3/8/38 Cdl 3/8/38 The B/P is in an E sem file which was sent up by I sem already. Please ask E sem for the Whereabouts of the B/P

SA Inspector

E Section (R.K)

Please see overleaf. and put up the B.P As (Secl) wants the file as quickly as possible.

3/8/38 4/8/38

Thro' E Section the B.P file containing the B. is in E. Section now for answering P.M. Secrets E Section requested to send file & the file linked through E. Section A 4/8/38

The linked file has been passed by DA E Sec will please do the needful

3/8/38

As (Estt)
Secn. file
P.N. 12 Cf.

As (Estt)

His. No. 1210 confdl dated 15-4-37 which is required for the disposal of this file has been taken in Secretariat for F. 2858/38 which is in circulation. This file may be ordered to lie over till the B.P. is made available.

29.6.38 Col 29/6/38 30/6

To Supdt. F.

Pl. say if B.P. His. No. 1210 (Confdl) of 15-4-37 ~~is~~ is available now.

30 Col 6/7/38

B.P. Misc Confdl 1210 is returned to the Record today ~~at 4 p.m. herewith. Please send a slip for that~~

6/7

CIRCULATING STOCK SLIP.

M.P. No. Mis. 3124

Date 5-11-38

Six Members.

~~Two Members.~~

~~Full Board.~~

I-A.	A.D.S. & L.R.	Asst. Secy. L.R.	Sett.	Sep. Rev.	J.S.	Secy.

(1) Open this immediately

(2) Final draft should be

(3) Now circulated to.

(4) Initials.

Passed for record.

~~Secretary~~
~~Joint Secretary~~

~~A.S.(L.R.)~~

A.S.(Sett.) 9/11/38

~~A.S.(Sep.Rev.)~~

~~A.D.S.~~ & L.R.

~~I-A.~~

Note.- ENTRIES NOT REQUIRED TO BE SCORED OUT.